

THE DEPUTY SECRETARY OF STATE
WASHINGTON

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USC
file
Law of Sea

NSC UNDER SECRETARIES COMMITTEE

MEMORANDUM FOR THE PRESIDENT

(W)P concurred
(telecon to Moore)
10 July 1973 PS

Subject: July/August 1973 Preparatory Meeting
for the Law of the Sea Conference

Pursuant to your request of June 22, 1973 for a review of the recommended United States position for the July/August 1973 preparatory meeting for the Law of the Sea Conference, a meeting of the Under Secretaries Committee was held on July 9, 1973. The principal focus of the meeting was the economic components of our law of the sea policy, particularly economic issues concerning continental margin resources and the structure of the International Seabed Resource Authority.

to recommend approval of
The Committee agreed that it was important to approve the recommended instructions contained in the June 1, 1973 report of the NSC Interagency Task Force on the Law of the Sea at the earliest possible date. The July/August meeting is now underway and approval of the instructions would enable the U.S. delegation to pursue present policies while maintaining maximum flexibility.

State Dept. declassification & release instructions on file

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Such approval would not prejudice our future ability to revise our policy, if necessary, pursuant to consideration of the results of a comprehensive economic review. Failure to pursue our present course, on the other hand, could seriously prejudice our ability to realize our goals in these difficult negotiations.

The Committee also agreed that the NSC Interagency Task Force on the Law of the Sea should undertake a comprehensive review of the economic issues raised in the law of the sea negotiations. Such a study will be commenced at the conclusion of the July/August preparatory meeting and will draw on the interagency membership of the Task Force including the Department of the Treasury, as well as appropriate White House offices concerned with economic policy. In the meantime we will encourage interested agencies to prepare such studies of the economic issues as they feel would be useful for the Task Force review of the economic issues. I will forward the results of this review to you well in advance of the 1974 Santiago Conference in conjunction with the preparation of recommended instructions for the Conference.

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It was understood in connection with the proposed economic review that the United States would continue to support a licensing power for the International Seabed Resource Authority as an alternative to a power of the Authority to engage in direct exploitation. The rules for licensing, however, would be carefully reviewed as part of the comprehensive economic review and as subsequently reviewed would become an integral part of the United States position on licensing.

Kenneth Rush
Chairman

Addressees please note: Please call concurrences to John N. Moore, 632-2630 by 3:00 p.m. today, July 10, 1973.

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1. The Interagency Task Force on the Law of the Sea, has submitted the attached report and reservations in regard to the already underway sessions of UN Seabed Committee, which is meeting in Geneva during July and August in final preparation for an International Law of the Sea Conference, scheduled for late 1973/Spring 1974. The purpose of this Task Force report is to appraise the White House of the current state of our negotiating efforts and to seek approval for changes in policy positions and tactics at this last preparatory session. The Treasury Department has expressed reservations concerning several basic economic issues in the US LOS policy position and has proposed USG actions which would have a substantial impact on our current negotiating stance. The failure of Task Force officials to allay all Treasury concerns has precipitated a meeting of the NSC Under Secretaries Committee to review the outstanding issues.

2. The present US negotiating position reflects the US oceans policy as it evolved since the President's statement in the spring of 1970. Designed to accommodate a wide variety of interests, its general objectives have been to head off the growing assertion of unilateral claims to ocean areas which pose a threat to freedom of the seas, to secure an international agreement which would create a fair and orderly system for exploiting the world's oceans, and to assure that these regulations and any new international machinery set up to administer them are compatible with U.S. security, commercial and scientific interests. The specific goals of our current negotiations are:

a. Territorial Sea -- To attain an international agreement on a maximum limit of 12 miles for the territorial sea. This is the narrowest possible limit

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on which agreement might be possible and that still protect our "strategic mobility".

b. Straits -- To couple with a 12-mile territorial sea agreement a firm condition for a new right of free transit through international straits. This would eliminate the old ambiguous criterion of "innocent passage", and is necessary because a 12 mile territorial sea limit could block sea and air movement thru the most important straits of the world.

c. Seabeds-- To set the precise outer boundary of coastal state control over seabed resources and at the same time protect other uses of the seabed and its superjacent waters to assure minimum global standards of environmental protection, and to provide for some revenue sharing with the international community. To establish beyond the limits of national jurisdiction an equitable and orderly system for control and exploitation which also protects the basic freedom of the high seas.

d. Fisheries -- To secure agreement on new and carefully defined fishing rights. The U.S. seeks here the difficult task of accommodating the growing demands of the coastal states for more control over their coastal fisheries which are in conflict with the historic interests of the powerful, distant fishing nations. At the same time, the U.S. seeks to assure adequate conservation practices, and maximum utilization of the world's fish stocks as a source of protein.

e. Environmental -- To achieve internationally agreed regulations against maritime pollution. A major concern here is to avoid excessively stringent controls which might lead to demands to eliminate or curtail the presence of the U.S. nuclear deterrent on or over the high seas.

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f. Scientific Research -- to establish the broadest possible freedom of scientific research in the oceans. The U.S. is seeking to reverse the restrictive trends which have taken place since the 1958 Continental Shelf Convention.

3. Treasury's concern is that the US LOS policy developed to date seems to reflect little or no explicit consideration of certain major economic policy interests of the US -- namely, future energy and raw material needs, development finance policies and domestic revenue needs. Specifically, they question four related elements of the current U.S. LOS negotiating objectives:

(1) International sharing of revenues generated by seabed exploitation

within the continental margin.

Treasury feels that since we don't know what percent we will share, from what portion of our continental margin we will share it, the extent of wealth in this region, nor the international mechanism that would handle these revenues, this concept is potentially damaging to U.S. firms with major technological advantages for seabed exploitation.

The Task Force indicates that if sharing is agreed on in a final seabed settlement it will only be a small insignificant amount. Actually we have kept "sharing" in our proposal as a negotiating tactic to attract land-locked and shelf-locked nations to our views on other important issues like free transit through straits, which is essential to our security interests. Sharing can also be used as a bargaining tool against most of the developing coastal states, who prefer to drop the concept, in exchange for obtaining reliable access to their continental margins, which constitute some 92% of the world's continental margins. Thus, the Task Force feels that we should leave the concept in order to maintain necessary negotiating flexibility.

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(2) International Standards and Conditions on Resource Exploitation

Within the Continental Margins.

Treasury suggests that external (International Authority) regulations covering "unresponsible interference" with navigation, minimum pollution standards, integrity of foreign investment and compulsory dispute settlement would impede efficient development of seabed resources and their costs. Particular concern is placed on the effect of these regulations on US jurisdiction over its continental margin and the ensuing burden on American enterprises.

The Task Force points out that the existing Continental Shelf Convention already limits interference with navigation, and that protection of investment and compulsory settlement of disputes affords a more favorable investment climate for US business on foreign continental shelves. Minimum pollution standards are desirable from both a world environment viewpoint and they would prevent coastal states from deliberately becoming "pollution havens" to attract industry. All these issues, again, are US bargaining points which are presently opposed by most developing coastal states and thus we can easily back off all or parts of them whenever we wish.

(3) The Powers and Functions of an International Seabeds Authority

in the Deep Seabed.

Treasury indicates that since we don't know the nature and value of all resources of the deep seabed, which constitutes 50% of the earth's surface, we best not bargain away to an international authority the access rights we now enjoy. The International Seabeds Authority proposed by the US has been given too

many broad powers which could impede future US resource acquisition goals.

Warning is given to the undesirable voting system in the Authority which could hurt US interests. Treasury recommends movement to a more restricted Authority which would only protect the oceans from "unreasonable" use.

The Task Force replies that the US proposal on a Seabed Authority is one of the most conservative which still provides business with reasonable and secure investment conditions, and adequate voting arrangements that are weighted in favor of the technologically-advanced nations. This is a "gut" issue with the developing nations and our only alternative would be to terminate the LOS negotiations. Our overall military and economic interests, however, do not warrant such action.

(4) Vessel Source Pollution Standards.

Treasury is concerned that internationally-established vessel source pollution standards will tend to raise to unnecessary heights for the US the costs of marine pollution control. They question the wisdom of our renouncing the right to regulate pollution by a foreign vessel off our shores beyond the 12-mile territorial sea. Treasury advises to leave specific abatement formulas open until economists have carefully examined alternative control mechanisms.

The Task Force warns that the alternative of strong and effective international standards on vessel pollution will be a crazy quiltwork of coastal state regulations. Such coastal pollution regulations would raise the cost of vessel construction and could be effectively used against US military

and economic interests. The Task Force recommends that the US continue in the work of drawing up pollution articles for next year's conference instead of acquiescing to broad coastal state jurisdiction. Since the issue will not be settled this summer, we can retreat from our present position later should additional study recommend so.

4. Coming as they have, so late in the preparatory sessions, Treasury's reservations on some of the basic economic issues and recommendations to drastically alter the negotiating instructions could severely harm the US LOS position and our ocean policy objectives. Treasury's conclusions appear to lack an appreciation for the ~~fact~~ ^{fact} that for many of our domestic LOS interests the US has strong countervailing interests in foreign areas.--economic as well as military--For example, International Standards covering navigation, pollution, integrity of foreign investment and compulsory settlement of disputes in the continental margins might well be annoying off our shores, but they create essential safeguards for the movement of US naval forces and the investment of American industry in foreign continental margins. In regard to an International Seabeds Authority, Treasury's argument that we are bargaining away our access rights to the deep seabeds suggests that this area belongs to the US or is up for grabs. It is, of course, beyond national jurisdiction and hence is international. What we are bargaining for is an orderly and equitable system for the future use of this ocean space. While the specific makeup of such a regime may be worrisome now, our proposal is the most conservative and our negotiators are fully aware of the ramifications of an improperly "weighted" Authority.

5. Thus, I recommend that the Agency endorse the Task Force's recommendations on negotiating tactics and options. Treasury's recommendations for a complete interagency review of the economic aspects of the LOS package, however, warrants our support.

Since most interagency specialists will be in Geneva thru August,

I agree with the Task Force that such a review commence in early September. I feel

that such a review should be

complete by 1 December to enable time for necessary alternative courses to be taken. Such a review, in my

estimation should include not only
the US's immediate interests, but
long-term US interests in international
economics.

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Law of the Sea**BACK ON COURSE**

Eventual convocation of the long-planned Law of the Sea Conference now seems assured. The UN Seabeds Committee removed the main obstacle to the meeting last week by adopting a list of topics to be discussed.

Early hopes that producing a conference agenda would be a simple matter foundered as the drafting got under way, and agreement was reached only after months of debate. The emergence of an agreed list is thus something of an achievement.

It does nothing, however, to solve the problems with which the Law of the Sea Conference must deal. There is, for example, a gathering of support for a 12-mile limit to territorial seas, but a number of countries persist in making greater claims. If this basic problem is settled, the economic rights of coastal states beyond their territorial seas must be debated. The related question of control over passage through straits falling within a 12-mile territorial sea would certainly become the subject of prolonged wrangling. There are also sharp differences over the type of international machinery that would be established to supervise the application of any agreements. The split on these issues is generally between developed and developing countries, but there is no unanimity in either group. Ultimately, each country will take a hard look at how its own economic and security interests would be affected.

Despite these problems, there is some cautious optimism. The Seabeds Committee meeting was the most productive one so far, and there is a growing realization among the participants that accommodations must be made on a number of specific issues. Nevertheless, the tactics employed by the developing countries could

cause difficulties if used at the Law of the Sea Conference. They caucused in the so-called "Group of 56" and faced the developed countries with unified, rigid positions on several issues. Many observers believe that this procedure was designed primarily for negotiations on the agenda items and will not be used again.

The Chinese delivered statements in the Seabeds Committee meetings designed to place them on the side of the developing countries, but they did not seem able either to assume leadership of the developing countries or to exert any special influence on them. Part of the difficulty may be that Peking is still feeling its way on complex UN issues, such as law of the sea. Soviet representatives took pains to counter Chinese charges of superpower collaboration. Early in the session, Moscow's chief delegate told his US counterpart that he would have to reduce public signs of cooperation with Washington. The Soviets subsequently raised the colonialism issue for the first time in the Law of the Sea context and also demanded East German participation in the Law of the Sea Conference. The Soviets also offered a new straits proposal without consulting the US, thus backing off from a previous informal US-Soviet understanding to insist on the right of free passage through international straits. Moscow, nevertheless, says it remains interested in private cooperation with the US on these matters.

The UN General Assembly, which convenes on 19 September, must approve the agenda and set the date for the conference itself. Preparatory work probably will not begin before late 1973, with consideration of substantive issues set back to early in 1974. In the meantime, the Seabeds Committee will continue to wrestle with the issues and to try its hand at drafting agreements on them.

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~~USSR-EGYPT: DIRTY LINEN~~

As the removal of Soviet military personnel and equipment appears to be coming to an end, so do the efforts in both Moscow and Cairo to avoid public recriminations over the expulsions. The effort in Cairo, never very strong, seems to have cracked first with a series of articles in leading publications which rather specifically called Soviet good faith into question.

Cairo's willingness to make its case public forced Moscow to react. And Soviet resentment over the expulsion, and especially over criticism of Soviet activities, boiled to the surface and will likely become more open. The Soviets had sought to avoid such exchanges which would harm their longer term interests in the Middle East and add fuel to world-wide speculation on their setback.

The first direct rebuttal of Egyptian criticism, which had been balanced to some degree by appeals for continued Soviet-Arab friendship, came in the current issue of the weekly magazine *New Times*. It was apparently triggered by Egyptian editorials of 11 and 12 August which openly criticized Soviet behavior concerning Egypt. One was by *Al-Ahram* chief editor Haykal and the other by *Akhbar al-Yawm* chief editor Al-Quddus. In Soviet eyes they probably bore an official imprimatur.

The *New Times* article singles out Al-Quddus and charges him with anti-Soviet propaganda. It calls Egyptian claims of insufficient military aid "provocative" and sticks to Moscow's contention that Soviet military experts returned home with the thanks of the Egyptian leadership after completing their jobs.

The article also cites Golda Meir's appeal to Sadat to meet as equals and Secretary Rogers' call for "active negotiations" as signs that "some people in the West and in Tel Aviv" feel Egypt has weakened itself. Egypt is exhorted to turn down these "old proposals for direct negotiations and interim agreements."

The *New Times* article was only the opening shot. After Haykal and Al-Quddus again published critical editorials on 18 and 19 August, a Soviet Foreign Ministry official acknowledged in public that Moscow was particularly embittered by Egypt's handling of the expulsion in the press. He observed that this press treatment could only have the approval of the leadership in Cairo.

The Soviets, in addition, are certain to react negatively if Sadat attempts to bypass Moscow in his avowed campaign to promote a peace settlement. *New Times*, for instance, encouraged the Arabs to rely on "the friendly support of the socialist commonwealth" in frustrating "intrigues" like those by Meir and Rogers. *Izvestiya* and *Pravda* on 21 and 23 August reflected particular concern about the Egyptian's turning to the US. *Izvestiya*, not surprisingly, blamed the US for most of the troubles in the Middle East over the past 20 years. *Pravda* underscored US support for Israel, saying this showed "how illusory the hopes of some Arab political leaders for 'mutual understanding' with the United States are." It warned that the Arab countries can achieve a fair peace only by relying on the Soviet Union and other socialist countries.

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These critical items in the Moscow press had been preceded by bitter comments made in private by Soviet diplomats in the Middle East. The US Embassy in Beirut states that Soviet Ambassador Azimov and other Soviet officials were making remarks highly critical of the Egyptians.

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Sadat an "idiot" in a conversation [redacted] called [redacted] and charged that the Egyptian expulsion was a retreat before the Zionists and imperialists. As undiplomatic as these references may be, they are probably honest expressions of Soviet vexation at the Egyptians. [redacted]

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